

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

CIRBA INC. (d/b/a DENSIFY)  
and CIRBA IP, INC.,

Plaintiffs,

v.

VMWARE, INC.,

Defendant.

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C.A. No. 19-742-LPS

**ORDER**

At Wilmington this **26th** day of **November, 2019**:

For the reasons set forth in the Memorandum Opinion issued this date,

**IT IS HEREBY ORDERED** that the following claim terms of U.S. Patent Nos.

8,209,687 (“the ‘687 Patent”) and 9,654,367 (“the ‘367 Patent”) are construed as follows:

<b>Claim Term</b>	<b>Court’s Construction</b>
<b>“Evaluating each virtual guest against each virtual host and other virtual guests”</b>  [claim 7 of the ‘687 Patent]	“Evaluating each virtual machine against each virtual host and other virtual machines”
<b>“Each virtual guest”</b>  [claims 2, 3, and 7 of the ‘687 Patent]	Plain meaning
<b>“Each virtual host”</b>  [claims 2 and 7 of the ‘687 Patent]	Plain meaning
<b>“Each candidate virtual guest”</b>  [claims 1, 13, and 16 of the ‘687 Patent]	“Each computer system being considered for conversion to a virtual machine”
<b>“Each candidate virtual host”</b>	“Each computer system being considered for conversion to a virtual host”

[claims 1, 13, and 16 of the '687 Patent]	
<b>"Candidate virtual guests" / "a set of virtualization guest candidates"</b>  [claims 1, 6, 13, 16, and 17 of the '687 Patent]	"Computer server being considered for conversion to a virtual machine" / "a set of computer servers that are being considered for conversion to virtual machines"
<b>"Candidate virtual host" / "a set of virtualization host candidates" / "virtual host candidates"</b>  [claims 1, 6, 13, 16, and 17 of the '687 Patent]	"Computer server being considered for conversion to a virtual host" / "a set of computer servers that are being considered for conversion to virtual hosts" / "computer server being considered for conversion to a virtual host"
<b>"An existing physical environment comprising a plurality of systems" / "a plurality of existing physical systems"</b>  [claims 1, 2, 13, 16, and 17 of the '687 Patent]	"A computing environment having a plurality of computer servers that are not virtualized" / "a plurality of computer servers that are not virtualized"
<b>"Identifying the existence of virtual machines with suboptimal placements"</b>  [claim 7 of the '687 Patent]	"Identifying the existence of virtual machines with less than optimal placements as determined by the evaluation step"
<b>"Business constraint"</b>  [claims 1, 2, 3, 7, 12, 13, 16, and 17 of the '687 Patent]	"A restriction or limitation based on a business parameter, such as physical location, organization department, data segregation requirements, owner, service level agreements, maintenance windows, hardware lease agreements, or software licensing agreements"
<b>"Said one of said plurality of virtual design scenarios"</b>  [claim 2 of the '687 Patent]	Indefinite
<b>"Determine whether the utilization or performance of an entity is in an acceptable range relative to its capacity or performance limits"</b>  [claims 1 and 13 of the '367 Patent]	"Determine whether an entity's utilization or performance is within an acceptable range, relative to that entity's capacity or performance limits"



UNITED STATES DISTRICT JUDGE